

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 32 and 34-53 are pending in the application, with claims 32, 34, 40, 43, and 51 being the independent claims. These changes are believed to introduce no new matter, and their entry is respectfully requested. Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Allowable Subject Matter***

Applicant express appreciation for the Examiner's indication that claim 32 is allowed.

***Summary of Examiner Interview***

Applicant respectfully thanks Examiner Duong for the courtesy of a telephonic interview held with Applicant's representative, Jon Strang (Registration No. 61,724) on July 31, 2009. During the interview, Applicant's representative and the Examiner discussed potential claim amendments that would overcome the 35 U.S.C. § 101 rejection. The Examiner stated that explicitly reciting hardware in a step of a method claim should be adequate to satisfy the particular machine prong of the *Bilski* test.

***Rejections under 35 U.S.C. § 101***

Claims 34-53 under 35 U.S.C. § 101 were rejected as allegedly encompassing non-statutory subject matter. Applicant respectfully traverses.

Without conceding the propriety of the Examiner's rejection, and solely to expedite issuance, Applicant has amended independent claims 34 and 40 to recite a cable modem (CM) in at least one step of each claim. Support for this amendment may be found in the Specification as filed at least at page 4, line 21 - page 6, line 26. Applicant has amended claims 43 and 51 to recite a transmitter in at least one step of each claim. Support for this amendment may be found at least at page 1, 20-21; page 4, line 21 - page 6, line 26; page 26, line 5 - page 27, line 26.

Applicant asserts that independent claims 34, 40, 43, and 51 are tied to a particular machine and thus satisfy at least one prong of the *Bilski* test. *In re Bilski*, 545 F.3d 943, 954 (Fed. Cir. 2008).

Thus, independent claims 34, 40, 43, and 51 recite statutory subject matter under § 101. Similarly, dependent claims 35-39, 41-42, 44-50, and 52-53, which depend from claims 34, 40, 43, and 51 respectively, recite statutory subject matter. Applicant respectfully requests reconsideration and withdrawal of these rejections.

Reply to Office Action of May 1, 2009

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Appl. No. 09/737,276

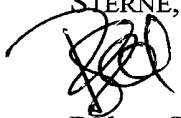
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: 8/3/09

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